

PT 96-12

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

FOX LAKE VOLUNTEER)	
FIRE DEPARTMENT,	)	95-49-200
APPLICANT	)	through
	)	95-49-203
)	
	)	Real Estate Exemptions
v.	)	for 1995 Tax Year
)	
DEPARTMENT OF REVENUE	)	P.I.N.S: 05-14-102-002
STATE OF ILLINOIS	)	and
	)	05-14-106-004
	)	through
	)	05-14-106-007
)	
	)	Alan I. Marcus,
	)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

SYNOPSIS:

This matter comes on for hearing pursuant to the Fox Lake Volunteer Fire Department's (hereinafter referred to as the "applicant" or "Fox Lake"), protest of the Illinois Department of Revenue's, (herein referred to as the "Department"), denial of Fox Lake's application for exemption from real estate taxes pursuant to 35 ILCS 200/15-5 *et seq.*¹ At issue is whether the above-captioned parcels qualify for exemption as a properties used exclusively for school purposes within the meaning of 35 ILCS 200/15-35, and also, whether the above-captioned parcels qualify for exemption as properties used exclusively for charitable purposes within the meaning of 35 ILCS 200/15-65. Following

¹ In *People ex rel Bracher v. Salvation Army*, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption will depend on the statutory provisions in force at the time for which the exemption is claimed. This applicant seeks exemption from 1995 real estate taxes. Therefore, the applicable statutory provisions are those contained in the Property Tax Code (35 ILCS 200\1-1 *et seq.*).

submission of all evidence and a careful review of the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT

1. The Department's jurisdiction over this matter, and position therein, are established by admission into evidence of Dept. Gr. Ex. Nos. 1 and 2.

2. The subject properties are located in Fox Lake Illinois. Dept. Gr. Ex. 1.

3. Parcel No. 05-14-102-002 is located at 115 Washington Street. In 1995, applicant used this parcel as a double parking lot. However, from time to time, it also made this parcel available for Fire Department drills. Dept. Gr. Ex. No. 1; Tr. pp. 14, 17, 20.

4. Parcel No. 05-14-106-004, hereinafter referred to as "meeting hall," is a two-story brick building located at 114 Washington Street. Dept. Gr. Ex. No. 1; Applicant Ex. No. 10.

5. Applicant used the meeting hall for the following purposes during the 1995 tax year: Tuesday and Thursday night meetings (Tr. p. 22); Saturday night bingos which raised funds for the Fox Lake Fire Department (Tr. pp. 14, 20-21); annual Vegas night that raised funds for the Fox Lake Fire Department (Tr. p. 14); Fire Department drills (Tr. p. 20); Classes in cardiopulmonary resuscitation (hereinafter "C.P.R.") (Tr. p. 24); A class in first aid training for members of the Fox Lake Fire Department (hereinafter "fire department personnel") (Tr. p. 27); a blood-borne pathogen class for fire department personnel (Tr. pp. 27, 62); emergency medical technician training that was restricted to fire department personnel (Tr. p. 40); A scuba diving class that was restricted to fire department personnel (Tr. p. 61).

6. Parcel No. 15-14-106-005 is located at 116 Washington Street. Applicant used this parcel, which is next to parcel no. 05-14-106-006, as a parking lot during the 1995 tax year. Dept. Gr. Ex. No. 1; Tr. p. 15.

7. Parcel No. 15-14-106-006 is a 30 X 30 single story brick building located at 120 Washington Street. Dept. Gr. Ex. No.1; Applicant Ex. No. 13; Tr. p. 30. During the 1995 tax year, applicant used this parcel as a storage building. Tr. pp. 30-31. Applicant stored pop, meats and gambling equipment in this building. Tr. p. 31. The pop and meats were used for meetings, the gambling equipment for Vegas Nights. *Id.* Applicant also occasionally stored the Fire Department's four wheel drive in this building during the wintertime. *Id.* Only members of the Fox Lake Volunteer Fire Department or Fox Lake Fire Department had access to this building during the 1995 tax year. Applicant restricted access to these two groups in order to prevent the stored materials from disappearing. Tr. pp. 31-32.

8. Parcel No. 15-14-106-007 is a parking lot located directly adjacent to parcel no. 15-14-106-006. Dept. Gr. Ex. No. 13; Tr. p. 15.

9. Parcel Nos. 15-14-106-006 and 007 are directly adjacent to the meeting hall. Tr. p. 15.

10. Applicant owned each of the aforementioned parcels during the 1995 tax year. Tr. p. 15; Applicant Gr. Ex. No. 1.

11. Applicant's sole purpose is to provide financial and other support for the Fox Lake Fire Department. Tr. p. 21; Applicant's Ex. Nos. 4, 14.

12. The Tuesday night meetings were held on the second Tuesday of each month. Tr. p. 22. Attendance at these meetings was not open to the public, but rather, restricted to applicant's members. Tr. p. 23. Average attendance was approximately 30 to 35 people. *Id.*

13. The Thursday night meetings were held on the first Thursday of each month. Tr. p. 22. These meetings were open to the public. *Id.* Average attendance was approximately 30-40 people.

14. The bingos were open to the public and held every Saturday night. Tr. pp. 20-21, 65. Applicant did not charge admission. Tr. p. 65. Average attendance was about 150 to 160 people. Tr. p. 21. Applicant raised

approximately \$1,200.00 per week. *Id.* All proceeds were used to pay for education of fire department personnel as well as to purchase equipment, uniforms and other aparati for the Fox Lake Fire Department. Tr. p. 21.

15. The Vegas night was held on the first Friday after the first Thursday in November, 1995. Tr. p. 26. This event was open to the public. Tr. p. 65. Applicant raised approximately \$2,500.00 through this event, which featured blackjack, over-and-under tables, a big six wheel and poker games. Tr. pp. 26, 65. Applicant conducted such games pursuant to a license issued by the Illinois Department of Revenue. Tr. p. 26. Applicant did not charge admission but applied all proceeds from the games toward buying uniforms and equipment for the Fox Lake Fire Department. Tr. pp. 26, 65.

16. Applicant made the meeting hall, and sometimes parcel nos. 05-14-102-002 and 15-14-106-005, available for fire department drills as of often as four times each month. The drills were held on Wednesday nights and open to the public without charge. However, average attendance was between 20 and 25 firemen. Tr. pp. 24-25.

17. The C.P.R. classes were free of charge and open to the public. Tr. pp. 25, 64. Average attendance was approximately 25-30 people. Tr. p. 63. Applicant made the public aware of these classes by word of mouth and by placing announcements in the community bulletin board. Tr. p. 63.

18. The blood borne-pathogen and scuba classes were free of charge. However, only fire department personnel knew about these classes because applicant did not advertise them. Tr. pp. 63-65.

19. The emergency medical technician courses were open only to members of the Fox Lake Fire Department's rescue squad. Tr. pp. 40-41.

20. During the 1995 tax year, applicant allowed the following organizations to use the meeting hall free of charge: Grant Township Organization, for one or two township organization meetings that were open to the public. (Tr. p. 28); Fox Lake Grade School for the annual teacher's appreciation day (Tr. p. 29); Cub

Scouts for one or two meetings during the year. (*Id.*); Gavin Grade School for a teacher's seminar that was not open to the public (Tr. pp. 29-30); State of Illinois Fire Marshal for various firefighting classes (Tr. p. 58); "Northern quadrant" of the State of Illinois for tactical training on arson and fire investigating (*Id.*); Northern Illinois Medical Center, for area recertification for paramedics (Tr. p. 68).

21. Applicant also allowed its members to use the meeting hall free of charge for wake dinners and wedding receptions during the 1995 tax year. Tr. p. 30.

22. Applicant was exempt from Federal Income Tax pursuant to Section 501(c)(4) of the Internal Revenue Code during the 1995 tax year. Applicant Ex. No. 15.

23. Applicant's charter, issued by the Illinois Secretary of State in 1908, provides that its object is "to furnish protection against fire to the Village of Fox Lake and the property and citizens thereof, and for this purpose to maintain an association of sufficient membership to carry out the objects of this association, which is to be a corporation not for pecuniary profit." Applicant Ex. No. 14.

24. Applicant's by-laws, which were in effect during the 1995 tax year, provide that its object "shall be to form a functional organization; establish harmony of action and friendship between the members; secure and insure protection and success, provide support for and promote the best interests of the Fox Lake Fire Department; conduct fund raising activities to produce funds for the purchase of new equipment and cooperate with the Fox Lake Fire Department, Village of Fox Lake, Fox Lake Fire Protection District, and other area departments and organizations for our mutual interests." Applicant Ex. No. 4.

25. General membership in applicant's organization was open to the public during the 1995 tax year. However, members had to be at least 18 years of age. Tr. p. 36.

26. Applicant's bylaws provided that "[a]ll members must work the regular fund-raising activities of the department." Applicant Ex. No. 4.

27. Minimum fund raising activities included participation in at least 80% of their assigned bingo duties during each year and completion of the minimum required hours at other fund raising activities as were determined by membership vote for that activity. *Id.*

28. Members who failed to satisfy the above requirements were removed from good standing and lost their right to vote. *Id.*

29. Members not in good standing for two consecutive years or three times in five years were subject to removal from applicant's organization. *Id.* However, a member could appeal removal from good standing based on lack of participation in fund raising activity to the membership committee. *Id.*

30. New members were required to pay a one-time, \$20.00 initiation fee. \$10.00 from this fee was applied toward the first year's dues, the remainder to a \$10.00 application fee. Applicant Ex. No. 4; Tr. p. 41.

31. Members were also required to pay \$10.00 annual dues. *Id.* Members whose dues were in arrears for a period of six months as of October 1 of any given year were subject to suspension. Applicant Ex. No. 4.

32. Applicant's bylaws contained no provision granting membership to individuals who wished to participate in its activities but were financially unable to pay the initiation fee or annual dues. *Id.*

33. Applicant applied proceeds from the dues and application fees paid to building expenses, uniforms and other equipment for the Fox Lake Fire Department and rescue squad. Tr. p. 35.

34. During the 1995 tax year, applicant's organization had the following officers: President, who was not paid for his services (Applicant Ex. No. 4; Tr. pp. 32-33); Vice-President, who was not paid for his services (*Id.*); Secretary, who received an annual salary of \$750.00 (*Id.*); Treasurer, who received an annual salary of \$2,400.00 (*Id.*); Sergeant-At-Arms, who was not paid

for his services (*Id.*); Three directors who were not paid for their services (*Id.*).

35. Applicant required that its officers be members of its organization. Tr. p. 34.

36. Applicant raised money for the salaries by donations, proceeds from bingo nights and selling pop and beer at its annual fund-raising festival. Tr. pp. 32-33.

37. Applicant did not apply proceeds from any of its fund raising events to pay the salaries of the firemen employed by the Fox Lake Fire Department. Tr. p. 66. These individuals received their salaries from the Village of Fox Lake. Tr. p. 67.

38. Applicant's organization had no capital stock and paid no director's fees during the 1995 tax year. Tr. p. 34.

39. Applicant obtained 99.56% of its total revenues from public support, contributions and program service revenues during its 1994-1995 fiscal year. Applicant Ex. No. 5. Most of the public support came from applicant's fund raising events, such as bingos, Vegas night and annual festival. Tr. p. 39. Other public support came from donations from estates of deceased members. *Id.*

40. Applicant received no government grants during its 1994-1995 fiscal year. The remaining .44% of its total revenues came from membership dues. Tr. p. 41; Applicant Ex. No.5.

41. Applicant's expenses for its 1994-1995 fiscal year were apportioned as follows:

A. 52.62% to expenses associated with operating "charitable programs." Applicant Ex. No. 5. These expenses covered costs associated with applicant's fund-raising events, such as the weekly bingos and annual Vegas Night. Applicant also applied these expenses toward

purchasing equipment for the fire and rescue squads. Tr. p. 42.

B. 3.71% to "education program service expense." Applicant Ex. No. 5. These expenses covered costs associated with Applicant's C.P.R. classes, such as mannequins and advertisement. Tr. p. 43.

C. Applicant also applied educational expenditures toward a "smoke house on wheels" that it took around to various schools during fire prevention week. Tr. pp. 44-45.

D. 4.16% on grants to other charitable organizations. Applicant made such grants to the local Lyons and Moose Clubs, as well as the Salvation Army and local Little League, during its 1994- 1995 fiscal year. However, its bylaws limited these grants to \$10.00 per year per organization. Applicant Ex. No. 4; Tr. pp. 42-43.

E. 31.94% to management and general expenses. These expenditures covered office supplies, equipment, building maintenance, heating, electricity and telephone. Applicant Ex. No. 5; Tr. p. 44.

F. 7.57% to fund raising expenses. Applicant applied these expenditures toward purchasing tickets for its Vegas Night and raffle tickets for its annual festival. *Id.*

G. The raffle tickets were mailed to the general public. Most of the proceeds from raffle ticket sales were applied to expenses associated with the fire department and rescue squad. However, some were put toward general and business-related expenses. *Id.*

42. Through its fund-raising and other activities, applicant's organization helped defray the cost of providing the Fox Lake Fire Department with training, equipment and manpower. Tr. p. 56.

CONCLUSIONS OF LAW

On examination of the record established this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant an exemption from property taxes for the 1995 assessment year. Accordingly, under the reasoning given below, the determinations by the Department that the above-captioned parcels do not qualify for exemptions under 35 ILCS 200/15-35 and 35 ILCS 200-65 should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The power of the General Assembly granted by the Illinois Constitution operates as a limit on the power of the General Assembly to exempt property from taxation. The General Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant exemptions other than those authorized by the Constitution. Board of Certified Safety Professionals, Inc. v. Johnson, 112 Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a self-executing provision. Rather, it merely grants authority to the General Assembly to confer tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery Association of Philo v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

In furtherance of its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 **ILCS** 200/1-3 **et seq.** The provisions of that statute which govern disposition of the present matter are contained in Sections 200/15-35 and 200/15-65. In relevant part, the former provides as follows:

... All property donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt, whether owned by a resident or non-resident of this State or by a corporation incorporated in any State of the United States. Also exempt is:

(b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities, and school owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities or other campus organizations.

Section 200/15-65 provides, in relevant part, that:

... All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity;

(b) beneficent and charitable organizations incorporated in any state of the United States whose owner, and no other person, uses the property exclusively for the distribution, sale or resale of donated goods and related activities and uses all the income from those activities to support the charitable, religious or beneficent activities of the owner, whether or not such activities occur on the property.

It is well established in Illinois that a statute exempting property or an entity from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption, and, have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

The instant record establishes that applicant conducts most of its activities in its meeting hall, parcel number 15-14-102-004. Inasmuch as the remaining parcels are adjacent parking lots or storage facilities, they can be granted tax exempt status only if they are reasonably necessary for furthering any exempt charitable or educational activity that takes place in or around the meeting hall. Memorial Child Care v. Department of Revenue, 238 Ill. App.3d 985 (4th Dist. 1992). Thus, I must begin my analysis by determining whether the meeting hall was used for exempt purposes during the 1995 tax year and then proceed to determine whether the adjacent parcels were reasonably necessary to effectuate those purposes.

In Methodist Old People's Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court adopted the following definition of "charity" in analyzing whether appellant's senior citizen's home was exempt from property taxes under the Revenue Act of 1939:

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

39 Ill.2d at 157 citing Crerar v. Williams, 145 Ill. 625 (1893).

The Korzen court also observed that the following "distinctive characteristics" are common to all charitable institutions: 1) they have no capital stock or shareholders; 2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters; 3) they dispense charity to all who need and apply for it; 4) they do not provide gain or profit in a private sense to any person connected with it; and, 5) they do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. *Id.*

In applying these criteria, the Korzen court, which was interpreting a statute mandating that the property be "exclusively used" for charitable purposes in order to qualify for exemption, held that "the term 'exclusively used' means the primary purpose for which property is used and not any secondary or incidental purpose." 39 Ill.2d at 157. See also, Gas Research Institute v. Department of Revenue, 145 Ill. App.3d 430 (1st Dist. 1987); Yale Club of Chicago v. Department of Revenue, 214 Ill. App.3d 468 (1st Dist. 1991); Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (4th Dist. 1993).

Based on Findings of Fact 11, 14, 15, 23, 24, 26, and 41(A), I conclude that applicant's primary purpose is to raise funds for the educational and equipment needs of the Fox Lake Fire Department. Because fund raising

activities, especially those which benefit an entity that provides a public service, are charitable rather than educational in nature, applicant's claims for exemption must be measured against the criteria set forth in Korzen.

Although applicant has no capital stock and pays no director's fees, both its bylaws (Applicant Ex. No. 4) and its charter (Applicant Ex. No. 14) contain no specific wording or reference to charity. Illinois courts have, on more than one occasion, indicated that lack of such wording in organizational documents can provide evidence that the applicant is not in fact organized for exempt purposes. People ex. rel. Nordlund v. Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Albion Ruritan Club v. Department of Revenue, 209 Ill. App.3d 914 (5th Dist. 1991).

Even if Applicant's organizational documents contained appropriate references to charity, its bylaws contain no provision which would grant membership to an individual who wished to participate in its activities but could not afford the initiation fee or annual dues. Rather, its bylaws specifically provide for suspension of those members whose dues are in arrears for six months and also allow for loss of voting rights in the case of a member not in good standing. These provisions, coupled with the one that allows for removal of a member not in good standing for a period two years or three times in five years, lead me to conclude that membership in applicant's organization is, in reality, limited to dues paying members who participate in an appropriate level of fund raising activity.

Applicant also restricts the object of its fund raising activities to the educational and equipment needs of the Fox Lake Fire Department. Illinois courts and the Department have recognized that "charitable institutions" may restrict their services to a certain group.² However, this applicant does not

² See, Sisters of the Third Order of St. Francis v. Board of Review, 231 Ill. 317 (1907); Lutheran General Health Care System v. Department of Revenue, 231 Ill.App. 3d 652 (1st Dist. 1992); 86 Admin. Code ch.1, Section 130.2005(i)(2).

conduct fund raising activities for any organization except the Fox Lake Fire Department.

In Parents and Friends of Orchard Village, Inc. v. Department of Revenue, 92 L 50620, applicant was granted an exemption from real estate taxes for a parcel that it used as a thrift shop. All proceeds from the thrift shop were distributed to Orchard Village, a residential facility for the mentally retarded. However, in order to ensure that all net proceeds from the thrift shop were channeled directly to Orchard Village, applicant's bylaws specifically prohibited payment of salary or distribution of earnings to any officer or director.

The instant case is similar to Orchard Village in that the applicant restricts disbursements of its funds to a very limited group. Despite this similarity, Orchard Village is clearly distinguishable from the present case because its outcome hinged on the application of the specific statutory provisions that apply to thrift shops. That statute, Ill. Rev. Stat. 1991 Sec. 120, par. 500.7, (now 35 **ILCS** 200/15-65(b)), provided as follows:

For purposes of this Section, beginning with assessment year 1989, it is a charitable or beneficent purpose and not a use with a view to a profit when (1) the owner, and no other person, uses the property *exclusively for the distribution, sale or resale of donated goods and related activities* and (2) the income derived therefrom is used exclusively to support the charitable, religious or beneficent activities of the owner whether or not such activities occur on the premises of such property. (emphasis added).

Here, the applicant's primary fund raising activities consist of a Vegas Night and weekly bingo games. To the extent these activities involve gambling, and not "distribution, sale or resale of donated goods," the above-cited statute does not govern disposition of the instant case. Furthermore, Findings of Fact 12, 13 and 21 establish that applicant's organization is more akin to a non-profit social club than a thrift shop. Illinois courts have held that the former are not "charitable institutions" because their activities and services primarily benefit their membership. Oak Park Club v. Lindheimer, 369 Ill. 462

(1938); Du Page Art League v. Department of Revenue, 177 Ill. App.3d 895 (2d Dist. 1988). Insofar as these cases distinguish applicant's organization from the one at issue in Orchard Village, the exemption set forth therein does not apply to applicant's properties.

Orchard Village is also distinguishable because this applicant's bylaws do not contain provisions which prohibit the payment of salary or other earnings. Rather, such bylaws clearly authorize salaries for its Secretary and Treasurer. Thus, the instant record does not contain the "compelling proof" which lead the Orchard Village court to find in favor of exemption. For this reason, as well as those set forth above, this applicant is not entitled to an exemption based on the holding in Orchard Village.

The evidence pertaining to lower tax rates in the Village of Fox Lake cannot alter the preceding conclusion. Applicant's organization does not set tax rates. Furthermore, the letters submitted as Applicant Ex.Nos. 6³, 7⁴ and 8⁵ are heresay. Therefore, they are not legally competent to establish any matters asserted therein. Even if the letters were not heresay, they fail to disclose how and to what extent applicant's organization relieves the taxpayer's burden. Consequently, the letters fail to meet the clear and convincing evidentiary standard set forth above.

Further, with respect to the testimony presented on the tax issue, it should be noted that neither of the applicant's witnesses⁶ were tax assessment officials. Nor did they present any credentials which would establish that they had any expertise in that area. Absent such credentials, or other indicia of specialized knowledge in the area of property tax assessment, the testimony of both witnesses is not legally competent to establish that applicant's organization is in fact responsible for lower tax rates, or, that tax rates

³Under the signature of Kenneth K. Hamsher, Mayor of Fox Lake.

⁴Under the signature of Peter Jakstas, ESDA Coordinator, Village of Fox Lake.

⁵Under the signature of Jack F. Frost, President/Trustee, Fox Lake Fire Protection District.

⁶Mr. Richard A. Hoehne and Mr. Greg Murrey.

would be higher if applicant's organization did not exist. Therefore, applicant has failed to prove that it reduces governmental burdens as required by Korzen.

It should be noted that applicant would not be entitled to exemption even if it had sustained its burden of proof on the tax reduction issue. Korzen clearly requires that the applicant satisfy *all* requirements for charitable exemption. However, as discussed above, applicant fails to satisfy a number of those requirements. Therefore, applicant's attempt to claim exemption by reference to lower tax rates must fail in the absence of evidence establishing conformity with the other mandated criteria.

The preceding considerations, taken together, establish that applicant is not a "charitable organization" within the meaning of Korzen. Thus, its meeting hall, which is primarily used for socialization and to raise funds for the educational and equipment needs of the Fox Lake Fire Department, cannot qualify for exemption under 35 **ILCS** 15-65. Therefore, it is unnecessary to consider whether the adjacent parking lots and storage facilities are reasonably necessary to effectuate applicant's purpose.

With respect to the educational exemption, I reiterate that applicant's organization is akin to a non-exempt social club and that its primary purpose is fund raising. While some of the proceeds from applicant's fund raisers go to educational purposes, those proceeds do not benefit a school or educational institution. Rather, they are used to further the education of an entity that provides a public service. For this reason, and because applicant *itself* is primarily a fund raising (as opposed to educational) organization, any educational activities it conducts are incidental to its primary purpose. Therefore, applicant is not entitled to exemption under 35 **ILCS** 200/15-35.

Inasmuch as the preceding analysis establishes that applicant is not entitled to exemptions under the provisions of law set forth above, it is my recommendation that the Department's denials of same be affirmed.

WHEREFORE, for the reasons set forth above, each of the aforementioned parcels should remain on the tax rolls for the 1995 tax year.

Date

Alan I. Marcus
Administrative Law Judge